

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA,	)	
	)	Case No. 3:19-cv-851
Plaintiff,	)	
	)	
v.	)	
	)	
DONALD R. BEVERLEY and	)	
MARTHA H. BEVERLEY,	)	
5201 Ashton Creek Rd.	)	
Chester, VA 23831	)	
	)	
Defendants.	)	
_____	)	

**UNITED STATES' COMPLAINT FOR FEDERAL TAXES**

The Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury of the United States, has authorized and requested this action, and it is brought at the direction of the Attorney General of the United States under the authority of 26 U.S.C. § 7401. The United States of America complains of defendant as follows:

1. This is a civil action in which the United States seeks to reduce to judgment the unpaid federal income tax assessments made against Donald R. Beverley and Martha H. Beverley, and to reduce to judgment the unpaid trust fund recovery penalties assessments made against Donald R. Beverley.

**Jurisdiction and Venue**

2. Jurisdiction is conferred on the Court by 28 U.S.C. §§ 1331, 1340 and 1345, as well as 26 U.S.C. § 7402(a).

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because Donald R. Beverley and Martha H. Beverly reside in this district, and because a substantial part

of the events giving rise to the claim occurred in this district. In the alternative, venue in this judicial district is based on 28 U.S.C. § 1396 because liability for the taxes at issue accrued in this judicial district.

### **Parties**

4. Plaintiff is the United States of America.

5. Defendant Donald R. Beverley resides in Chesterfield County, Virginia, within the jurisdiction of this Court.

6. Defendant Martha H. Beverley resides in Chesterfield County, Virginia, within the jurisdiction of this Court.

### **COUNT I: REDUCE INCOME TAX ASSESSMENTS MADE JOINTLY AGAINST DONALD BEVERLEY AND MARTHA BEVERLY TO JUDGMENT**

7. The United States incorporates paragraphs 1 through 6 of the complaint as if fully set forth herein.

8. A delegate of the Secretary of the Treasury made the following federal income tax assessments against Donald R. Beverley and Martha H. Beverley:

<b>Tax Type</b>	<b>Tax Year</b>	<b>Assessment Date</b>	<b>Original Tax Assessed</b>	<b>Outstanding Balance as of 10/28/2019 (including penalties and interest)</b>
Income – Form 1040	2002	9/8/2003	\$152,867.00	\$271,606.04
Income – Form 1040	2003	12/13/2004	\$136,858.55	\$300,597.64
Income – Form 1040	2004	11/28/2005	\$97,885.00	\$162,683.20
Income – Form 1040	2014	7/27/2015 12/12/2016	\$101,523.00 \$3,533.00	\$57,050.11
Income – Form 1040	2015	7/18/2016	\$85,877.00	\$51,894.87
Income – Form 1040	2016	5/15/2017 11/19/2018	\$10,486.00 \$2,348.00	\$2,910.05

Income – Form 1040	2017	8/20/2018	\$14,331.00	\$9,578.20
<b>Total Due</b>				<b>\$856,320.11</b>

9. Notice and demand for payment of the assessments described in paragraph 8 were given to Donald Beverley and Martha Beverley in accordance with 26 U.S.C. § 6303.

10. Statutory additions for interest and penalties have accrued and will continue to accrue on the assessments described in paragraph 8.

11. Donald Beverley and Martha Beverley have not fully paid the outstanding balance of the assessments described in paragraph 8.

12. By reason of the foregoing, Donald Beverley and Martha Beverley are indebted to the United States in the amount of **\$856,320.11**, as of October 28, 2019, plus interest and costs that will continue to accrue after that date according to law.

WHEREFORE, the United States respectfully requests:

A. That this Court enter judgment for plaintiff United States of America, and against the defendants, Donald Beverley and Martha Beverley, in the amount of **\$856,320.11**, as of October 28, 2019, plus statutory additions and costs that will continue to accrue after that date until paid; and

B. That the Court award the United States such further relief, including the costs and fees of this action, that the Court deems appropriate.

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**COUNT II: REDUCE TO JUDGMENT TRUST FUND RECOVERY PENALTIES  
ASSESSED AGAINST DONALD R. BEVERLEY**

13. The United States incorporates paragraphs 1 through 12 of the complaint as if fully set forth herein.

14. D.R.B. Inc., *trading as* Don's Trucking Inc., failed to withhold and pay over to the United States federal employment taxes for the tax periods ending on 3/31/2015, 12/31/2016, 3/31/2017, 9/30/2017, 12/31/2017, 3/31/2018, 6/30/2018, and 9/30/2018.

15. Defendant Donald R. Beverley worked in D.R.B. Inc.'s Chester, Virginia, office. Donald Beverley was a person who was responsible for collecting, truthfully accounting for, and paying over to the United States the employment taxes that were withheld from the wages of D.R.B. Inc.'s employees during the tax periods at issue.

16. Donald R. Beverley signed the Form 941s for D.R.B. Inc. for the tax periods described in Paragraph 14, above, and had signatory authority for D.R.B. Inc.'s bank accounts.

17. On April 4, 2019, Donald Beverley had an interview with IRS Revenue Officer C. Cook, during which he admitted that: (1) he performed all financial duties and responsibilities related to D.R.B. Inc.; and (2) he knew that D.R.B. Inc.'s employment taxes were not being paid on time.

18. Donald R. Beverley's willful failure to collect, truthfully account for, and pay over the federal employment tax liabilities that were withheld from the wages of the employees of D.R.B., Inc. during the tax periods at issue rendered him liable for a penalty equal to the total amount of the federal employment taxes not collected, accounted for, and paid over to the United States.

19. A delegate of the Secretary of the Treasury assessed federal trust fund recovery penalties (“TFRPs”) against Donald R. Beverley in accordance with 26 U.S.C. § 6672, on the dates and in the amounts set forth below:

<b>Tax Type</b>	<b>Tax Period Ending on:</b>	<b>Date of Assessment</b>	<b>Assessed Amount</b>	<b>Balance as of October 28, 2019</b>
Section 6672 (TFRP)	03/31/2015	9/16/2019	\$11,898.14	\$11,966.79
Section 6672 (TFRP)	12/31/2016	9/16/2019	\$113,096.23	\$113,748.75
Section 6672 (TFRP)	03/31/2017	9/16/2019	\$104,686.92	\$105,290.92
Section 6672 (TFRP)	09/30/2017	9/16/2019	\$12,172.12	\$12,242.35
Section 6672 (TFRP)	12/31/2017	9/16/2019	\$109,689.47	\$110,322.34
Section 6672 (TFRP)	03/31/2018	9/16/2019	\$92,369.08	\$92,902.01
Section 6672 (TFRP)	06/30/2018	10/14/2019	\$85,075.63	\$85,238.79
Section 6672 (TFRP)	09/30/2018	9/16/2019	\$6,292.67	\$6,328.98
Total:				<b>\$538,040.93</b>

20. Notice and demand for payment of the assessments described in paragraph 19, above, were given to Donald R. Beverley.

21. Donald R. Beverley failed to pay the assessments and accrued statutory additions for interest and, as a result, the amount owed as of October 28, 2019, is **\$538,040.93**.

22. Statutory additions for interest have accrued and will continue to accrue until paid.

WHEREFORE, The United States prays that this Court:

A. Render judgment in favor of the United States and against Donald R. Beverley in the amount of **\$538,040.93**, as of October 28, 2019, for unpaid assessed federal trust fund

recovery penalties as set forth in paragraph 19, above, together with interest that has accrued and will continue to accrue after that date;

B. Grant the United States such further relief, including the costs of this action, that the Court deems appropriate.

Dated: November 15, 2019

G. ZACHARY TERWILLIGER  
United States Attorney

/s/

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